

### **REMARKS/ARGUMENTS**

Claims 41-76 are pending. No amendments to the claims are made by this response.

Claim 41 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 18 of copending Application No. 10/660,468.

As presented, the pending claims of the subject application comply with all requirements of 35 U.S.C. Accordingly, Applicants request allowance of the pending claims.

#### ***Allowable Subject Matter***

Claims 66-76 are indicated as allowed. Claims 42-65 are indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants thank the Examiner for the indication of allowable subject matter.

#### ***Double Patenting***

MPEP § 804(I)(B)(1) states:

"If a 'provisional' nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer."

The present application was filed on August 14, 2003, whereas Application No. 10/660,468 was filed on September 10, 2003. Thus, the present application is the earlier filed of the two pending applications. Further, the nonstatutory obviousness-type double patenting rejection of claim 41 is the only rejection remaining in the present application, while Application No. 10/660,468 stands rejected on other grounds. Therefore, Applicants respectfully request that the Examiner withdraw the nonstatutory obviousness-type double patenting rejection of claim 41 and permit the present application to issue as a patent without a terminal disclaimer.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

/Craig C. Largent/

Craig C. Largent  
Reg. No. 56,400

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400  
Fax: 415-576-0300  
CCL/KBC/ka  
61231718 v1